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OLIFF & BERRIDGE, PLC
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In re Application of	:	
Tetsuo ASADA	:	
Application No. 10/695,827	:	DECISION ON PETITION
Filed: October 30, 2003	:	TO WAIVE EXTENSION
For: SHEET FEED DEVICE FOR FEEDING	:	OF TIME FEE
CUT SHEETS WHILE INTERPOSING		
SHORTENED INTERVAL BETWEEN		
SUCCESSIVE FED TWO SHEETS		

This is in response to the petition under 37 CFR 1.181 received in the United States Patent and Trademark Office (USPTO), on May 27, 2005, to waive the fee for the four-month extension of time required to make the Response filed May 27, 2005 considered timely.

The petition is **Dismissed**.

A review of the file record reveals that a Restriction Requirement setting a one-month extendable response period was mailed on December 30, 2004.

The petitioner states that the Restriction Requirement mailed December 30, 2004 was never received and that he only became aware of it on May 20, 2005 after speaking with the examiner on May 19, 2005. Petition requests that the four-month extension of time required to make the response filed herewith timely be waived as a response was filed promptly after applicant became aware of the December 30, 2004 Restriction Requirement.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

- (1) A statement from the practitioner stating the Office communication was not received by the practitioner;
- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and
- (3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.


The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date at and around January 30, 2005. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

The petitioner has failed to comply with requirements (2) and (3) indicated above. Applicant has only set forth that the Office action (Restriction Requirement) mailed on December 30, 2004 was not received or placed in the file for application 10/695,827. A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received and a complete docket record with a copy of the list of all responses in the practitioner's office with the due date at and around January 30, 2005 is required.

Petitioner's evidence of non-receipt of the Restriction Requirement mailed on December 30, 2004 is insufficient to waive the fee for the four-month extension of time. The four-month extension of time has been charged in order to make the response filed May 27, 2005 considered timely. In the event that petitioner may perfect the showing of non-receipt in a renewed petition, petitioner may petition to request a refund of the fee charged for the four-month extension of time.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181" and should be mailed to the Commissioner for Patents, P.O. Box 1450, Technology Center 3600, Alexandria, VA 22313-1450.

This application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to enter the response filed with this petition, charge Deposit account 15-0461 the necessary fee for entry as authorized on page 2 of the response, and then to forward to the examiner for prompt action on the response.



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KJD/rjc 08/26/05